**THE HONOURABLE SRI JUSTICE V. ESWARAIAH**

**WRIT PETITION No.21199 OF 2006**

**DATED: 11-06-2007**

**BETWEEN**

Mohd. Rahamathulla,
S/o. Md. Nzeer,
Occ: Student,
R/o. 9-9-46/1,
Mangapuram Colony,
Near Tharamass,
Visakhapatnam.

...PETITIONER

**AND**

Inspector of Police,
III Town Police Station,
Visakhapatnam and
others.

...RESPONDENTS

**ORDER:**

Petitioner seeks a Writ of Mandamus to declare the action of the fourth respondent in harassing him by calling to the Task Force Police Station, Visakhapatnam regularly and the action of the respondents 1 to 3 in not registering a case on the complaint filed him on 06.10.2006 against the fourth respondent as illegal and arbitrary.

2. Learned counsel for the petitioner submits that the fourth respondent is calling the petitioner to the police station and harassing him and beating him in the police station by removing his shirt and threatening to implicate him in false cases. He further submits that the fourth respondent is also

threatening the petitioner to work as his informer and opened a rowdy sheet against him though he has not committed any illegal activities. He further submits that the petitioner has lodged a complaint on 06.10.2006 before the III Town Police Station making certain allegations against the fourth respondent,
but no crime has been registered on the said complaint.

3. Counter has been filed by the Inspector of Police, III Town Police Station, Visakhapatnam, stating that the report given by the petitioner on 06.10.2006 was entered into the General Diary by ASI in-charge SHO. It is stated that the petitioner having given his cell number, whenever contacted, there was no response, therefore, he could not be contacted and as there was no response from the petitioner to record his statement no case was registered immediately. Basing on the entry in the General Diary, the Commissioner of Police, Visakhapatnam City directed the Inspector of Police to conduct enquiry and take necessary action. Accordingly, an enquiry was conducted and report was submitted to the Commissioner of Police on 23.10.2006 stating that all the allegations made by the petitioner are false and incorrect and that the petitioner is not having good conduct and criminal cases are pending against him, which are as follows:

1. Cr.No.133 of 1998, under Section 381 of the Indian Penal Code, 1860 of II Town Police Station,
2. Cr.No.209 of 2003, under Sections 468, 471 and 420IPC of III Town Police Station,
3. Cr.No.304 of 2004, under Section 498(A) IPC of III Town Police Station and
4. Under Section 3(12) of T.N. Act in PCR No.629 of 2006 of III Town Police Station.

It is further stated that insofar as the allegations made against the fourth respondent are concerned, enquiry is conducted and the allegations are yet to be proved.

4. Learned counsel for the petitioner submits that when a complaint has been lodged alleging that a cognizable offence has been committed the

police cannot investigate without registering a crime.

5. In the instant case, certain allegations have been made against the fourth respondent, therefore, to find out whether the said allegations are true and correct and more so, when the petitioner could not be contacted to record his statement, a prima facie enquiry has been conducted. If the petitioner is aggrieved by the said action,
it is always open to him to file a private complaint under Section 190 read with Section 200 of the Code of Criminal Procedure. Therefore,
I am of the opinion that the petitioner cannot be granted any relief in this writ petition and also a direction cannot be issued to the respondents directing them to register the case, as the petitioner has got effective remedy available under the provisions of the Code of Criminal Procedure, as held by this Court in W.P.No.21709 of 2005 and batch dated 06.02.2007.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

June 11, 2007
DSK